

EMPLOYMENT STANDARDS TRIBUNAL

In the matter of an appeal pursuant to Section 112 of the

Employment Standards Act, R.S.B.C. 1996, c. 113

-by-

Wyman D. Carrol

(“Carrol”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

ADJUDICATOR: Kenneth Wm. Thornicroft

FILE No.: 98/117

DATE OF HEARING: April 23rd, 1998

DATE OF DECISION: May 4th, 1998

DECISION

APPEARANCES

No appearance on behalf of Wyman D. Carrol
No appearance on behalf of Prowest Transport Ltd./Trend Transport Ltd.
No appearance on behalf of the Director of Employment Standards

OVERVIEW

This is an appeal brought by Wyman D. Carrol (“Carrol”) pursuant to Section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by the Director of Employment Standards (the “Director”) on February 4th, 1998 under file number 030-774 (the “Determination”). Carrol appeals the Determination on the ground that the Director’s delegate erred in finding that his employment with Prowest Transport Ltd./Trend Transport Ltd. (the “employer”) was terminated with just and sufficient cause [see section 63(3)(c) of the *Act*].

As noted above, the Director determined that Carrol’s employment was terminated for just cause. Specifically, the Director’s delegate found that Carrol, who had been employed as a truck driver with the employer, was terminated on May 27th, 1997 following a motor vehicle incident the previous day that was due to his own neglect. The delegate noted in the Determination that Carrol had been involved in two prior accidents and was partly, if not wholly, to blame in each prior accident. Further, the delegate found that following the second motor vehicle accident the employer had warned Carrol that in the event of another accident, his employment would be terminated.

The appeal in this matter was scheduled to be heard at 9:00 A.M. on April 23rd, 1998 at the Tribunal’s offices in Vancouver. By 10:00 A.M. on the 23rd neither party had arrived nor had either party contacted the Tribunal by telephone or otherwise to explain their absence.

Based on my perusal of the material filed by the parties, the appellant’s appeal appears to have little, if any, prospect of success. I note that Carrol’s appeal largely turns on his position that the third accident in question was not his fault, however, the appellant’s position is severely undermined by an inculpatory statement made by him shortly after the accident to a fellow employee. Accordingly, and in light of the appellant’s failure to attend the appeal hearing despite having been given written notice of the hearing date, or to otherwise contact the Tribunal to explain his failure to attend, this appeal is dismissed as abandoned.

ORDER

Pursuant to section 115 of the *Act*, I order that the Determination be confirmed as issued.

Kenneth Wm. Thornicroft, *Adjudicator*
Employment Standards Tribunal